

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION

MAUREEN TOFFOLONI, Individually,)
and as Administratrix and)
Personal Representative of the)
ESTATE OF NANCY E. BENOIT and the)
ESTATE OF DANIEL BENOIT, and)
PAUL TOFFOLONI, Individually,)

Plaintiffs,)

v.)

PHIL CARROLL ASTIN, III, M.D.,)
DISTRIBUTOR X,)
DISTRIBUTOR Y, and)
DISTRIBUTOR Z,)

Defendants.)

CIVIL ACTION
FILE NO. 3:09-CV-62-JTC

MOTION FOR ENTRY OF DEFAULT

COME NOW, Plaintiffs, Maureen Toffoloni, Individually and as Administratrix and Personal Representative of the Estates of Nancy E. Benoit and Daniel C. Benoit, and Paul Toffoloni, through counsel and move the Court to enter default against Defendant Phil Carroll Astin, III, M.D., for failing to file an Answer to the Complaint within the appropriate time to respond to Plaintiffs' Complaint. Plaintiffs' Complaint was filed on June 9, 2009. Notice of the lawsuit and a Request

for Waiver of Service of Summons were mailed to Defendant Astin on June 26, 2009. Defendant Astin signed the Waiver of Service of Summons on June 30, 2009. The sixty (60) days in which Defendant was required to file an Answer to Plaintiffs' Complaint expired on August 25, 2009. On September 9, 2009, the 15-day grace period for opening default expired. To date, Defendant has not filed an Answer with the Court.

Respectfully submitted December 8, 2009.

/s/ Richard P. Decker
RICHARD P. DECKER
State Bar of Georgia #215600
F. EDWIN HALLMAN, JR.
State Bar of Georgia #319800
RICHARD A. WINGATE
State Bar of Georgia #770617
ZACHARY M. WILSON III
State Bar of Georgia #559581

For HALLMAN & WINGATE, LLC
Attorneys for Plaintiffs

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CERTIFICATE OF SERVICE

This is to certify that on December 8, 2009, I served the following party
in the foregoing matter with a Motion for Entry of Default by placing a copy of same
in the United States Mail in a properly addressed envelope with adequate postage
thereon to:

Dr. Phil Astin, III
FCI Morgantown
Federal Correctional Institution
P.O. Box 1000
Morgantown, WV 26507

/s/ Richard P. Decker
RICHARD P. DECKER
State Bar of Georgia #215600

For HALLMAN & WINGATE, LLC
Attorneys for Plaintiffs

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